



THE COMMITTEE ON ENERGY AND COMMERCE

INTERNAL MEMORANDUM

May 2, 2011

MEMORANDUM

To: Subcommittee on Energy and Power and Subcommittee on Environment and the Economy

From: Committee Majority Staff

Subject: Hearing Entitled: “The Role of the Nuclear Regulatory Commission in America’s Energy Future”

On Wednesday, May 4, 2011, at 9:30 a.m. in 2123 Rayburn House Office Building, the Subcommittee on Energy and Power and the Subcommittee on Environment and the Economy will conduct a joint hearing entitled: “The Role of the Nuclear Regulatory Commission in America’s Energy Future.” The hearing will focus on the critical role played by the U.S. Nuclear Regulatory Commission (NRC) in the development of nuclear power generation in the United States to help meet the nation’s current and future electricity needs.

I. Witnesses

Four of the five commissioners of the NRC will present testimony on a single panel:¹
Gregory B. Jaczko, Chairman,
Kristine L. Svinicki, Commissioner
William D. Magwood, Commissioner
William C. Ostendorff, Commissioner

II. Background

Nuclear energy represents a critical component of current and future U.S. electric power generation, in particular, for meeting demand for baseload-generation. The United States has 104 [operating reactors](#) at 65 nuclear power plants in 31 [states](#). Since 1990, the share of the nation’s electricity supply provided by nuclear power has averaged 20%, with increases in generation roughly tracking the growth in the nation’s total electricity [output](#), as new reactors were placed into service and generation capacity was increased at existing reactors. At present, license applications to build 26 new reactors have been submitted, and applications for an additional 11 reactors may be submitted over the next five years, according to the NRC.

¹ Commissioner George Apostolakis has travel commitments and is unable to participate.

For the past decade, both Congress and the Executive Branch have instituted or promoted policies to encourage the development of nuclear power. The Energy Policy Act of 2005 provided incentives for building new commercial nuclear power plants, through tax credits, loan guarantees, and measures to address regulatory delays, among other provisions. The Obama Administration includes nuclear power as a necessary element of its clean energy policy vision for 2035, focusing research on advanced nuclear generation designs at the Department of Energy (DOE). In all cases, the successful maintenance of existing and development of new nuclear capacity depends in large part on the NRC.

The NRC is an independent agency, established by Congress in the Energy Reorganization Act of 1974 to oversee the commercial nuclear industry. NRC licenses and regulates the nation's civilian use of nuclear facilities and materials to ensure adequate protection of public health and [safety](#). The NRC is headed by five Commissioners, appointed by the President and confirmed by the Senate for five-year terms. The President designates one of the Commissioners to serve as Chairman. The Commission is responsible for policy formation, rulemaking, adjudications, and adjudicatory orders. As established in Commission [procedures](#), the authorities of the Commission are exercised in a collegial manner; each Commission member has equal authority in all Commission decisions and equal (prompt and full) access to all agency information pertaining to Commission responsibilities, according to the NRC. The Chairman is the official spokesman of the agency and is the principal executive officer for the Commission, responsible for administrative functions of the agency. The Chairman is governed by the general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

In addition to its ongoing activities to license new and relicense existing nuclear power reactors, the NRC has confronted certain challenging issues over the past year that also may affect the future of nuclear energy in the United States.

The NRC played a central role in the U.S. government response to the Fukushima Daiichi nuclear power plant in Japan this past March. NRC provided technical assistance to Japan and the U.S. Ambassador. On April 1, it established a task force to provide a short term review of the incident to identify any issues of safety and security concerning U.S. nuclear power plants and the storage of spent nuclear fuel. Longer term assessments will also be performed.

The issue of spent nuclear fuel that has been highlighted in the Japan incident also underscores a major policy initiative of the Obama Administration, which has taken actions to terminate the development of a spent fuel and high-level radioactive waste repository at Yucca Mountain, adjacent to the Nevada Test Site.² The disposition of spent fuel is a critical element of nuclear power development; absence of a permanent repository to date has resulted in the need for continued storage of the waste onsite at nuclear facilities, which creates uncertainty regarding licensing of new nuclear power reactors, as well as on-going financial liabilities and legal challenges relating to existing facilities.

² For additional background: see "Closing Yucca Mountain: Litigation Associated with Attempts to Abandon the Planned Nuclear Waste Repository" Congressional Research Service, March 4, 2011 ([R41675](#)).

Pursuant to the Nuclear Waste Policy Act of 1982 (NWPA), as amended, the NRC is responsible for reviewing the license application for the construction of the repository at Yucca Mountain. That application, filed by DOE in June 2008, was docketed by NRC in September 2008, which is directed by NWPA to conduct its review within four years. The NRC then commenced a two pronged review of the application: (1) a technical licensing review by the NRC staff to assess the technical merits of the repository design and formulate a position on whether to issue a construction authorization for the repository and (2) adjudicatory hearings by the NRC's Construction Authorization Board, to consider technical and legal challenges to the application. The Commission, based on a staff Safety Evaluation Report and the Board hearings, is to determine solely on the technical merits whether to authorize construction of the repository.

In March 2010, DOE filed a motion with the NRC's Construction Authorization Board to withdraw the license application. The Commission directed the Board to decide the motion by June 1, 2010. On June 29, 2010, the Board denied the DOE motion to withdraw the application. Full Commission review of the Board decision is pending. On October 1, the NRC began to terminate licensing review activities.

III. Issues

Issues to be examined at the hearing may include:

- Functioning of Commission to ensure timely decision-making;
- Impact of Japan nuclear incident on nuclear safety policy;
- Status of licensing and re-licensing nuclear reactors; and
- Review of DOE's license for construction of a repository at Yucca Mountain.

IV. Staff Contacts

If you have any questions regarding this hearing, please contact David McCarthy or Peter Spencer of the Majority Committee staff at (202) 225-2927.